

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

|                                 |   |                                    |
|---------------------------------|---|------------------------------------|
| PGA REALTY COMPANY, LLC,        | ) |                                    |
|                                 | ) |                                    |
| Interpleader Plaintiff,         | ) |                                    |
|                                 | ) |                                    |
| v.                              | ) |                                    |
|                                 | ) |                                    |
| SUSAN M. CROCKER, INDIVIDUALLY  | ) | CIVIL ACTION NO. 1:21-CV-11312-LTS |
| AND AS TRUSTEE OF THE SUSAN M.  | ) |                                    |
| CROCKER IRREVOCABLE TRUST-2002, | ) |                                    |
| LAURIE CROCKER BRYCE, REBECCA   | ) |                                    |
| CROCKER HAZLEWOOD, AND          | ) |                                    |
| ALEXANDER WILLIAM CROCKER,      | ) |                                    |
|                                 | ) |                                    |
| Interpleader Defendants.        | ) |                                    |

**MOTION TO DISCHARGE APPOINTMENT AND FOR PAYMENT OF  
ATTORNEY’S FEES BY COUNSEL FOR THE SUSAN M. CROCKER  
IRREVOCABLE TRUST**

NOW COMES Kristin Wildman Shirahama, appointed by this Court as Counsel for the Susan M. Crocker Irrevocable Trust, and respectfully requests that this Honorable Court discharge her from that appointment and award payment of attorney’s fees and costs in the amount of \$6,961.14. As grounds therefore, Attorney Shirahama states as follows:

At issue is the Susan M. Crocker Irrevocable Trust (the “Trust”). The Trust was established in 2002; it is irrevocable and unamendable.

The Trust was created with two original trustees, Susan Crocker and Patricia M. Annino (collectively, the “Trustees”), and provided that the Trustees shall pay all of the net income of the Trust to Susan Crocker and shall pay to Susan Crocker, upon her written request(s), a total of up to \$1,000,000.00 from the principal of the Trust. It further provided that there shall at all times be two Trustees of the Trust, at least one of whom is a licensed attorney or certified public accountant. Any vacancy in the office of Trustee of the Trust shall be filled only by an

appointment in writing signed by all of Susan Crocker, Laurie Crocker Bryce, Rebecca Crocker, and Alexander William Crocker, provided that at the time they are all of legal age and capacity or have a legally appointed guardian or conservator. Patricia M. Annino resigned as Trustee of the Trust on or about May 3, 2017, with no successor trustee.

The Trust is a member of PGA Realty Company, LLC (“PGA”). In early 2021, PGA sold real property yielding distributable net proceeds. The Trust, having an ownership interest in PGA, was entitled to a corresponding distribution from those net proceeds. PGA had not distributed the amount due and owing to the Trust, however, claiming that the Trust, contrary to its terms, had only one Trustee who is also the beneficiary of the Trust and therefore not empowered to act alone as Trustee. It also alleged that said Trustee/beneficiary had demanded payment be made directly to her instead of to the Trust, and further expressed concern that should it make a distribution to the Trust, the Trustee/beneficiary may assert legal claims against it and/or exercise such control over the funds that might expose PGA to a legal claim from the remainder beneficiaries of the Trust entitled to receive the principal of the Trust following her death. Accordingly, on or about August 12, 2021, PGA filed the above-captioned action.

On or about November 30, 2021, this Court (Sorokin, J.) issued an order appointing the undersigned as counsel for the Trust. On or about January 7, 2022, this Court (Sorokin, J.) issued a further order that, *inter alia*, Susan Crocker, Laurie Crocker Bryce, Rebecca Crocker, and Alexander William Crocker had until January 13, 2022 to agree upon appointment of a second Trustee and should report the name of any such Trustee appointed. In response, the Court received a filing from Rebecca Crocker Hazlewood requesting that the undersigned be appointed as second Trustee. The undersigned declined to serve as Trustee and, therefore, the

Court (Sorokin, J.) further ordered the undersigned to petition the Probate and Family Court for appointment of a second Trustee.

The Undersigned filed said Petition in the Middlesex Probate & Family Court, received the corresponding Citation, and published and served the Citation pursuant to its terms. A Status Conference was held in the Middlesex Probate & Family Court on November 23, 2022. A Pre-Trial Conference was held on February 2, 2023. Undersigned counsel and all of the beneficiaries participated in the Pre-Trial Conference. The Court indicated that, following the hearing, it would enter an Order appointing a successor trustee for the Trust.

On or about February 22, 2023, the Court issued a Decree appointing a successor trustee for the Trust. Thereafter, said successor trustee declined the appointment for personal reasons.

On or about May 1, 2023, two separate things happened:

1. The Probate Court docketed and issued Notice of a Further Pre-Trial Conference to be held July 14, 2023; and
2. The Probate Court docketed the Undersigned's Motion for Relief from Judgment, requesting that the February 22, 2023 Decree be amended to appoint a different successor trustee. Along with that Motion, the Undersigned filed the Bond of said nominee.

On July 14, 2023, undersigned counsel and three of the beneficiaries participated in a Pre-Trial Conference.<sup>1</sup> The Court thereafter afforded the beneficiaries an opportunity to explore potential resolution of their disputes. A further Status Conference was scheduled for September

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<sup>1</sup> Alexander Crocker did not appear.

28, 2023. Following that hearing, the Court issued a Decree appointing Attorney Roger Lipton as Successor Trustee.

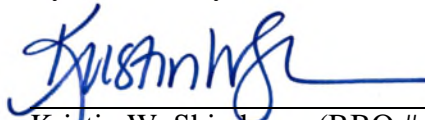
In light of the issuance of the Decree and the appointment of a Successor Trustee, undersigned counsel's involvement is no longer required, having fulfilled the obligations and scope of her appointment.

In the interim, since this Court's last award of attorney's fees to counsel for the Trust, additional fees of \$6,961.14 have accrued, as set forth in more detail in my Affidavit, submitted herewith. As such, counsel respectfully seeks payment of \$6,961.14.

WHEREFORE, counsel for the Trust respectfully requests that this Court discharge her appointment, order the Trust to pay to her firm the amount of \$6,961.14, and order such other and further relief as the Court deems just and appropriate.

THE SUSAN M. CROCKER IRREVOCABLE  
TRUST - 2002

By Its Attorney,



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CERTIFICATE OF SERVICE

I certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants, including Attorney Roger Lipton, on November 1, 2023.

/s/ Kristin W. Shirahama

Kristin W. Shirahama